(17,307.)

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1899.

No. 219.

GEORGE H. EARLE, JR., RECEIVER OF THE CHESTNUT STREET NATIONAL BANK, PLAINTIFF IN ERROR,

vs.

WILLIAM CONWAY.

IN ERROR TO THE SUPREME COURT OF THE STATE OF PENNSYLVANIA.

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JUDD & DETWEILER, PRINTERS, WASHINGTON, D. C., JULY 17, 1899.

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1 To the honorable the Supreme Court of the United States:

The petition of George H. Earle, Jr., as receiver of the Chestnut Street National Bank, respectfully showeth that your petitioner brought an action into the supreme court of Pennsylvania for the eastern district of Pennsylvania to January term, 1898, No. 247, by writ of certiorari to an appeal from a judgment of the court of common pleas of Philadelphia county, No. 4, of December term, 1897, No. 626, in which action in said supreme court your petitioner was appellant and defendant (garnishee) in the said court of common pleas and William Conway was appellee in said supreme court and plaintiff in said court of common pleas.

That the said action in the said court of common pleas was one in which said plaintiff in said court of common pleas sued one John G. Schall in assumpsit, and in which, on February 24, 1898, a judgment was entered against said John G. Schall and damages assessed at $1,012.43; that said plaintiff in said court of common pleas afterward, on May 24, 1898, caused to be issued by said court of common pleas and returnable to it a writ of attachment surjudgment, and it was served upon said The Chestnut Street National Bank of Philadelphia (a banking association incorporated, organized, and transacting business under the act of Congress known as the "national bank act" and laws of the United States) at 9 a. m. on May 25, 1898, and upon said George H. Earle, Jr., as receiver of said The Chestnut Street National Bank, at 1.20 p. m. on May 24, 1898, as garnishees, commanding the said The Chestnut Street National Bank and the said George H. Earle, Jr., as receiver of said The Chestnut Street National Bank, to be and appear before said court of common pleas, at Philadelphia, on the first Monday of June, 1898, to show, if anything they, the said garnishees, have to say, why the said judgment against said John G. Schall, besides costs of suit, should not be levied of the effects of the said defendant in the hands of the said garnishees; that afterward, on June 9, 1898, said George H. Earle, Jr., as receiver of said The Chestnut Street National Bank, garnishee aforesaid, entered his qualified appearance in said action in said court of common pleas for himself and said bank; that afterward, on the same day, a motion was made and filed (entered as a rule) by your petitioner to set aside the service of writ of attachment surjudgment and to vacate and dismiss all proceedings in attachment against him and the

2 said The Chestnut Street National Bank, garnishees, for want of jurisdiction of the said court of common pleas under section 5242 of the Revised Statutes of the United States, maintaining that all the proceedings in attachment had in said action in said court of common pleas against said The Chestnut Street National Bank and himself as receiver were and are null and void, and thereafter, on June 17, 1898, an affidavit of George H. Earle, Jr., was filed in said action, setting forth by affirmation that he had been duly appointed by the Comptroller of the Currency of the United States on January 29, 1898, and had duly qualified as receiver of said

bank, and that by said judgment of said common pleas court the motion or rule entered by said George H. Earle, Jr., as receiver of said The Chestnut Street National Bank, to vacate and dismiss the proceedings in attachment against said bank and himself as receiver in said action for want of jurisdiction of said common pleas court under section 5242 of the Revised Statutes of the United States was discharged, and that the judgment of said common pleas court discharging said rule was against the title, right, privilege, exemption, and exception specially set up and claimed under such statute of the United States by your petitioner, to his great damage.

That on the 30th day of January, 1899, the supreme court of Pennsylvania, sitting at Philadelphia, ordered said judgment of said court of common pleas to be affirmed, and afterward, on the 30th day of January, 1899, the said judgment was duly entered and recorded in the eastern district of Pennsylvania aforesaid upon the records of said supreme court.

That the said judgment of the supreme court of Pennsylvania is a judgment of the highest court of record of the State of Pennsylvania.

That the judgment of the said supreme court of Pennsylvania is final.

That the right, title, privilege, exemption, immunity, and exception claimed by your petitioner, defendant and garnishee and appellant aforesaid, was claimed upon his own behalf and for his own benefit under section 5242 of the Revised Statutes of the United States, in force at the time the writ of attachment complained of was issued against your petitioner and said bank by said court of common pleas of Philadelphia county, and the judgment of which court against your petitioner in this regard has been affirmed by said supreme court of Pennsylvania, as aforesaid. The said section 5242 of the Revised Statutes of the United States is in words as follows:

3 "SEC. 5242. All transfers of the notes, bonds, bills of exchange, or other evidences of debt owing to any national banking association, or of deposits to its credit; all assignments of mortgages, sureties on real estate or of judgments or decrees in its favor; all deposits of money, bullion, or other valuable thing for its use, or for the use of any of its shareholders or creditors; and all payments of money to either, made after the commission of an act of insolvency, or in contemplation thereof, made with a view to prevent the application of its assets in the manner prescribed by this chapter, or with a view to the preference of one creditor to another, except in payment of its circulating notes, shall be utterly null and void. No attachment, injunction, or execution shall be issued against such association or its property before final judgment in any suit, action, or proceeding in any State, county, or municipal court."

That the decision and judgment of the supreme court of Pennsylvania aforesaid was against the right, title, privilege, immunity, exemption, and exception so claimed by and for the benefit and use of your petitioner.

That the said court of common pleas of Philadelphia and the supreme court of Pennsylvania have and had no jurisdiction over the subject-matter in controversy, but that the jurisdiction is by the said statute laws of the United States (section 5242, Revised Statutes) wholly forbidden and prohibited, and therefore the said proceedings and judgment aforesaid are null and void and contrary to the statute laws of the United States in the premises.

Your petitioner therefore prays for the allowance of a writ of error to the supreme court of Pennsylvania in order that the said judgment of the supreme court of Pennsylvania may be re-examined and reversed or affirmed in the Supreme Court of the United States.

And he will ever pray.

GEORGE H. EARLE, JR.,
As Receiver of the Chestnut Street National Bank.

4 STATE OF PENNSYLVANIA, } ss:
County of Philadelphia, }

George H. Earle, Jr., being duly affirmed according to law, declares and says that he was appointed receiver of the said The Chestnut Street national bank on or about January 29, 1898, by the Comptroller of the Currency of the United States, and that the facts in the above petition stated are true to the best of his knowledge, information, and belief.

GEORGE H. EARLE, JR.

Affirmed and subscribed before me this sixth day of February, A. D. 1899.

[Seal of Wm. H. G. Gould, Notary Public, Philadelphia, Pa.]

WM. H. G. GOULD,
Notary Public.

I will accept service of citation to the Supreme Court of the U. S. in above case.

J. C. STILLWELL,
Att'y for Wm. Conway.

4½ [Endorsed:] In the Supreme Court of the United States. George H. Earle, Jr., as receiver of the Chestnut Street national bank, petitioner in error, *vs.* William Conway. Petition for writ of error. And now, to wit, this 8th day of February, 1899, citation awarded and writ of error allowed by me, George Shiras, Jr., associate justice of the Supreme Court of the United States. Asa W. Waters, W. H. Addicks, attorneys for petitioner.

5 UNITED STATES OF AMERICA, *ss:*

[Seal of the Supreme Court of the United States.]

The President of the United States of America to the honorable the judges of the supreme court of the State of Pennsylvania, Greeting:

Because in the record and proceedings, as also in the rendition of the judgment of a plea which is in the said supreme court, before you or some of you, being the highest court of law or equity of the said State in which a decision could be had in the said suit between George H. Earle, Jr., receiver of the Chestnut Street national bank, appellant, and William Conway, appellee, No. 247, January term, 1898, wherein was drawn in question the validity of a treaty or statute of or an authority exercised under the United States and the decision was against their validity, or wherein was drawn in question the validity of a statute of or an authority exercised under said State, on the ground of their being repugnant to the Constitution, treaties, or laws of the United States, and the decision was in favor of such their validity, or wherein was drawn in question the construction of a clause of the Constitution
6 or of a treaty or statute of or commission held under the United States and the decision was against the title, right, privilege, or exemption specially set up or claimed under such clause of the said Constitution, treaty, statute, or commission, a manifest error hath happened, to the great damage of the said appellant, as by his complaint appears, we, being willing that error, if any hath been, should be duly corrected and full and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment be therein given, that then, under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, together with this writ, so that you have the same in the said Supreme Court, at Washington, within 30 days from the date hereof, that, the record and proceedings aforesaid being inspected, the said Supreme Court may cause further to be done therein to correct that error what of right and according to the laws and customs of the United States should be done.

Witness the Honorable Melville W. Fuller, Chief Justice of the United States, the 8th day of February, in the year of our Lord one thousand eight hundred and ninety-nine.

JAMES H. McKENNEY,
Clerk of the Supreme Court of the United States.

Allowed by—

GEORGE SHIRAS, JR.,
Associate Justice of the Supreme Court of the United States.

7 *Copy of Citation.*

UNITED STATES OF AMERICA, *ss*:

To William Conway, Greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States, at Washington, within 30 days from the date hereof, pursuant to a writ of error filed in the clerk's office of the supreme court of the State of Pennsylvania, wherein George H. Earle, Jr., receiver of the Chestnut Street national bank is plaintiff in error and you are defendant in error, to show cause, if any there be, why the judgment rendered against the said plaintiff in error, as in the said writ of error mentioned, should not be corrected and why speedy justice should not be done to the parties in that behalf.

Witness the Honorable George Shiras, Jr., associate justice of the Supreme Court of the United States, this eighth day of February, in the year of our Lord one thousand eight hundred and ninety-nine.

GEORGE SHIRAS, JR.,
Associate Justice of the Supreme Court of the United States.

Service of above citation, on February 9, 1899, is admitted and accepted.

J. C. STILLWELL,
Att'y for Wm. Conway.

8 *Bond Surwrit of Error to the Supreme Court of the United States.*

In the Supreme Court of Pennsylvania, Sitting at Philadelphia.

WILLIAM CONWAY, Appellee, *vs.* (JOHN G. SCHALL, Defendant, and) GEORGE H. Earle, Jr., as Receiver of the Chestnut Street National Bank, Garnishee, Appellant.	No. 247, January Term, 1898.

Know all men by these presents that we, George H. Earle, Jr., as receiver of the Chestnut Street national bank, and the Finance Company of Pennsylvania, are held and firmly bound unto William Conway in the full and just sum of twenty-five hundred (2,500) dollars, to be paid to the said William Conway, his certain attorney, executors, administrators, or assigns; to which payment, well and truly to be made, we do bind ourselves, our successors and assigns and our heirs, executors, administrators, and assigns, jointly and severally, firmly by these presents.

Sealed with our seals and dated this eighth day of February, in the year of our Lord one thousand eight hundred and ninety-nine.

Whereas lately, at a court of common pleas, No. 4, in and for the county of Philadelphia, judgment was entered against
9 said George H. Earle, Jr., as receiver of the Chestnut Street national bank, at the suit of William Conway, of December

term, 1897, No. 626, which judgment was afterward affirmed by the supreme court of the State of Pennsylvania in a certain plea and suit in said court of January term, 1898, No. 247, and the said George H. Earle, Jr., as receiver of the Chestnut Street national bank, having obtained a writ of error to the Supreme Court of the United States to reverse the said judgment rendered in the last above-entitled action, and having filed a copy thereto in the office of the prothonotary of said court, and a citation directed to the said William Conway, citing and admonishing him to be and appear at a Supreme Court of the United States to be holden at Washington within thirty days from the date thereof:

Now, the condition of the above obligation is such that if the said George H. Earle, Jr., as receiver of the Chestnut Street national bank, appellant in said Supreme Court of the United States, shall prosecute his writ of error to effect and answer all damages and costs if he fails to make his plea good, then the above obligation to be void; else to remain in full force and virtue.

GEORGE H. EARLE, JR.,
As Receiver of the Chestnut St. National Bank. [SEAL.]
THE FINANCE CO. OF PENNSYLVANIA,
By C. WILLIAM FUNK, *Sec'y.* [SEAL.]

Sealed and delivered in the presence of—
SIMON A. STERN.

10 I approve of the above bond on behalf of William Conway.
J. C. STILLWELL,
Att'y for Wm. Conway.

The above bond approved this 8th day of February, 1899.
GEORGE SHIRAS, JR.,
Associate Justice of the Supreme Ct. of U. S.

Endorsement: 247, January term, 1898. William Conway *vs.* John G. Schall, The Chestnut Street National Bank, and George H. Earle, Jr., receiver of the Chestnut Street National Bank, garnishee, appellants. Bond surappeal to the Supreme Court of the United States. Filed Feb. 9, 1899, in supreme court of Penna, E. D.

Certificate.

I hereby certify that the above is a true and correct copy of the bond filed in above-entitled case.

In testimony whereof I have hereunto set my hand and the seal of said court, at Philadelphia, this ninth day of February, A. D. 1899.

[Seal of the Supreme Court of Pennsylvania, Eastern District, 1776.]

CHAS. S. GREENE,
Prothonotary.

[Ten-cent U. S. internal-revenue stamp, canceled 2, 9, '99. C. S. G.]

11 In the Supreme Court of Pennsylvania, Eastern District.

Among the records and proceedings of the supreme court of Pennsylvania in and for the eastern district, *inter alia*, the following may be found as matter of file and of record:

Appearance Docket.

No. 247, January Term, 1898.

Docket Entries.

247.	William Conway, plaintiff, *vs.*	Appeal from the court of common pleas, No. 4, of the county of Philadelphia.
Asa W. Waters. W. H. Addicks.	John G. Schall, defendant; The Chestnut Street National Bank and George H. Earle, Jr., receiver of the Chestnut Street National Bank, garnishees.	Filed June 24, 1898.
		Eo die, certiorari exit, ret'ble the first Monday of January, 1899.
	Appeal of the garnishees.	July 6, 1898, record returned and filed.
	C. P., No. 626, Dec. term, 1897.	January 2, 1899, assignments of error filed.
		January 17, 1899, argued.
		12 January 30, 1899, judgment affirmed *per curiam* (S.).
		February 9, 1899, petition and copy of petition for writ of error to the Supreme Court of the United States brought into office.
		Eo die, writ of error, with copy of same, brought into office.
		Eo die, citation, with service, admitted and accepted by J. C. Stillwell, [Alfred D. Wiler,]* Esq., William Conway, att'y for [Commonwealth of Penna.,]* brought into office.
		Eo die, bond in $2,500 filed.

Correction made before signing of certificate.

CHAS. S. GREENE,
Prothonotary.

I hereby certify that the above and foregoing is a true and correct copy of the docket entries in the above-entitled case so full and entire as appears of record in our said supreme court.

In testimony whereof I have hereunto set my hand and seal of said court, at Philadelphia, this 9th day of February, A. D. 1899.

[Seal of the Supreme Court of Pennsylvania, Eastern District, 1776.]

CHAS. S. GREENE,
Prothonotary.

[Ten-cent U. S. internal-revenue stamp, canceled 2, 9, '99. C. S. G.]

[* Words enclosed in brackets erased in copy.]

Appeal and Affidavit.

In the Supreme Court of Pennsylvania, Eastern District.

WILLIAM CONWAY, Plaintiff, *vs.* JOHN G. SCHALL, Defendant, and The Chestnut Street National Bank and George H. Earle, Jr., Receiver of the Chestnut Street National Bank, Garnishees.	Court of Common Pleas, No. 4, of the County of Philadelphia, December Term, 1897. No. 626.

Enter appeal on behalf of the Chestnut Street national bank and George H. Earle, Jr., receiver of the Chestnut Street national bank, from the order of the court of common pleas, No. 4, of the county of Philadelphia, discharging rule to set aside service of writ of attachment surjudgment, &c., entered June 20, 1898.

To Charles S. Greene, proth'y sup. ct.

COUNTY OF PHILADELPHIA, *ss:*

George H. Earle, Jr., being duly affirmed, saith that said appeal is not taken for the purpose of delay, but because appellants believe they have suffered injustice by the order from which they appeal.

GEORGE H. EARLE, JR.

Affirmed and subscribed this 23rd day June, A. D. 1898.

H. G. HART,
Notary Public.

[SEAL.]

14 Endorsement: No. 247, January term, 1898, supreme court of Pennsylvania, eastern district. William Conway *vs.* John G. Schall; Chestnut Street National Bank and George H. Earle, Jr., receiver, etc., garnishees, appellants. Appeal and affidavit. Filed Jun- 24, 1898, in supreme court. Asa W. Waters, W. H. Addicks.

Pracipe for Certiorari.

In the Supreme Court of Pennsylvania, Eastern District.

THE CHESTNUT STREET NATIONAL BANK and George H. Earle, Jr., Receiver of the Chestnut Street National Bank, Appellants, *vs.* WILLIAM CONWAY.	Certiorari to the Court of Common Pleas, No. 4, of the County of Philadelphia, of December Term, 1897. No. 626.

Issue certiorari to the court of common pleas, No. 4, of the county of Philadelphia to bring up record and proceedings in a certain action in said court, No. 626, Dec. term, 1897, wherein William Conway is plaintiff and John G. Schall is defendant and The Chest-

nut Street National Bank and George H. Earle, Jr., receiver of the Chestnut Street national bank, are garnishees.

Returnable to next term, *sec. reg.*

ASA W. WATERS,
W. H. ADDICKS,
Attorneys for Appellants.

To Charles S. Greene, proth'y supreme court, sitting at Philadelphia.

15 Endorsement: No. 247, January term, 1898, supreme court of Pennsylvania, eastern district. William Conway *vs.* John G. Schall; Chestnut Street National Bank and George H. Earle, Jr., receivers, etc., garnishees, appellants. Præcipe for certiorari. Filed Jun- 24, 1898, in supreme court. Asa W. Waters, W. H. Addicks.

Exemplification.

PHILADELPHIA COUNTY, } *sct:*
State of Pennsylvania, }

Among the records and proceedings of the court of common pleas, No. four, for the county of Philadelphia, State of Pennsylvania, the following may be found as matter of file and of record at No. 626, December term, 1897, to wit:

Docket Entries.

December Term, 1897.

J. C. Stillwell.	William Conway *vs.* John G. Schall.	Sums. assumpsit exit Dec. 23, 1897.
626.		Ret. Mon., Jan'y, 1898, *nihil habet.*
	Dec. 23, 1897, statement of claim & rule to file aff't of defence filed.	Jan'y 7, 1898, als. sums. exit.
	Jan. 12, 1898, aff't of service of copy of statement & rule to file.	Ret. 3 Monday, Jan'y, 1898.
	Aff't of defence on Jan. 8, 1898, filed.	Served.
		Feb'y 24, 1898, judg't for want of an aff't of defence.
16 June 9, 1898, qualified appearance of A. W. Waters and W. H. Addicks for Geo. H. Earle, Jr., receiver, &c., garn., filed.	May 24, 1898, att. surjudg't *vs.* the Chestnut Street national bank and George H. Earle, Jr., receiver of the said Chestnut Street national bank, garnishee, exit.	*Eo die*, dams. ass'd a- $1,012.43.
	Ret. 1 Monday, June, 1898.	June 8, 1898, rule to set aside service of writ of attachment and to dismiss and vacate all proceedings in attachment.
	Att. as commanded and made known to garnishees, and *nihil habet* as to def't.	June, 20, 1898, rule discharged.
	June 17, 1898, aff. of Geo. H. Earle, Jr., filed.	June 8, 1898, rule to transfer to circuit court of the United States.
		June 13, 1898, rule withdrawn.
		June 24, 1898, certiorari from S. C., of Jan'y T., 1898, No. 247, bro't into office.
		Eo die, appeal bond of gar. filed.

Certified from the record this 27th day of June, A. D. 1898.

JOHN T. BURNS,
Pro Prothonotary.

[SEAL.]

WILLIAM CONWAY *vs.* JOHN G. SCHALL. } C. P., No. 4, Dec. Term, 1897. No. —.

Issue summons in assumpsit against the above-named defendant, returnable to the first Monday of January, 1898.

J. C. STILLWELL,
Att'y for Plaintiff.

Phila., Dec. 23, 1897.

To proth'y C. P. of Phila.

17 Endorsement: C. P., 4. 626, Dec. term, 1897. William Conway *vs.* John G. Schall. 315. Præcipe for summons in assumpsit. Filed Dec. 23, 1897. Hunter, pro proth'y. J. C. Stillwell.

COUNTY OF PHILADELPHIA, *ss:*

The Commonwealth of Pennsylvania to the sheriff of the county of Philadelphia, Greeting:

We command you that you summon John G. Schall, late of your county, so that he be and appear before our judges at our [SEAL.] court of common pleas, No. 4, of the county of Philadelphia, to be holden at Philadelphia, in and for said county, on the first Monday of January next, there to answer William Conway of a plea of assumpsit; and *to* have you then and there this writ.

Witness the Honorable Michael Arnold, president judge of our said court, at Philadelphia, the 23rd day of December, in the year of our Lord one thousand eight hundred and ninety-seven (1897).

J. U. G. HUNTER,
Pro Prothonotary.

18 Endorsement: 626, Dec. term, 1897, court of common pleas, No. 4. William Conway *vs.* John G. Schall. Summons assumpsit. J. C. Stillwell. *Nihil habet.* So answers Harry P. Wildey, deputy sheriff. Alexander Crow, Jr., sheriff.

Statement of Claim.

WILLIAM CONWAY *vs.* JOHN G. SCHALL. } C. P., No. 4, December Term, 1897. No. —.

COUNTY OF PHILADELPHIA, *ss:*

The plaintiff, William Conway, claims of the defendant, John G. Schall, the sum of one thousand dollars, with interest thereon from the 20th day of December, A. D. 1897, and two dollars and six cents,

costs of protest, which sums are justly due and payable by the said defendant to the said plaintiff upon the cause of action whereof the following is a statement:

The defendant, to wit, on the 20th day of September, A. D. 1897, at the county aforesaid, made his promissory note in writing, of which note, with the endorsements now thereon, the following is a copy:

$1,000.00. PHILADELPHIA, *Sept.* 20, 1897.

Ninety days after date I promise to pay to the order of Turner & Kelly one thousand dollars at 4815 Cedar Ave., without defalcation, for value received.

JOHN J. SCHALL,
4815 *Cedar Ave.*

No. —. Due Dec. 20.

19 Upon which note are the following endorsements: "Turner & Kelly." "William Conway."

and delivered the said note to one Turner & Kelly, and the said Turner & Kelly then and there duly endorsed the same to the said plaintiff, whereof the defendant had notice.

The said promissory note was duly presented for payment at the said No. 4815 Cedar avenue, in the county aforesaid, and payment of the same duly demanded of a proper person, according to the tenor of the said note, but payment thereof was refused; whereupon the said note was duly protested for non-payment, for which the plaintiff was obliged to lay out and expend the sum of two dollars and six cents for costs of protest, and said defendant has always refused to pay the amount of the said note and costs of protest thereof or either thereof or any part thereof; wherefore the plaintiff brings this suit.

WILLIAM CONWAY.

COUNTY OF PHILADELPHIA, *ss:*

William Conway, the plaintiff above named, being duly sworn according to law, deposes and says that the facts set forth in the foregoing statement are true.

WILLIAM CONWAY.

Sworn and subscribed before me this 22nd day of December, A. D. 1897.

WILLIAM C. STOEVER,
[SEAL.] *Notary Public.*

20 Endorsement: December term, 1897. 626. C. P., No. 4. Conway *v.* Schall. Statement of claim. To the defendant within named: You are hereby notified that a rule has been entered upon you in the above case to file an affidavit of defense therein within fifteen days after the service of this notice upon you. Filed Dec. 23, 1897. Hunter, pro proth'y.

WILLIAM CONWAY
v.
JOHN G. SCHALL. } C. P., 4, Dec. Term, 1897. No. 690.

Issue als. summons in assumpsit in the above case, returnable to the third Monday of January, 1898.

J. C. STILLWELL,
Att'y for Pl'ff.

Jan. 7, 1898.

To proth'y C. P. of Phila.

Endorsement: C. P., 4. 626, Dec. term, 1897. William Conway *vs.* John G. Schall. Præcipe for als. sums. assumpsit. Filed Jan. 7, 1898. Hunter, pro proth'y. J. C. Stillwell.

Summons.

COUNTY OF PHILADELPHIA, *ss:*

The Commonwealth of Pennsylvania —:

We command you, as before we did, that you summon
[SEAL.] John G. Schall, late of your county, so that he be and appear before our judges, at Philadelphia, at our court of common pleas, No. 4, of the county of Philadelphia, to be holden at Philadelphia, in and for said county, on the third Monday
21 of January inst., there to answer William Conway of a plea of assumpsit; and *to* have you then and there this writ.

Witness the Honorable Michael Arnold, president judge of our said court, at Philadelphia, 7th day of January, in the year of our Lord one thousand eight hundred and ninety-eight (1898).

J. U. G. HUNTER,
Pro Prothonotary.

Endorsement: 626, Dec. term, 1897, court of common pleas, No. 4. William Conway *vs.* John G. Schall. Summons assumpsit. J. C. Stillwell. Served John G. Schall by giving to him, January 8th, 1898, a true and attested copy of the within writ and making known to him the contents thereof. So answers Harry R. Wildey, deputy sheriff. Alexander Crow, Jr., sheriff.

WILLIAM CONWAY
vs.
JOHN G. SCHALL. } C. P., No. 4, Dec. Term, 1897. No. 690.

Jacob Myers, being duly sworn according to law, deposes and says that he served a copy of plaintiff's claim and rules to file an affidavit of defence in the above case on the defendant, John G. Schall, by giving to him, January 8th, a copy of statement and making known to him the contents thereof.

JACOB MYERS.

22 Sworn and subscribed to before me this 10th day of January, A. D. 1898.

—— ——.

Endorsement: 626, Dec. term, 1897, C. P., No. 4. William Conway *vs.* John G. Schall. Affidavit of service of statement. Filed Jan. 12, 1898. P. Hunter, pro proth'y. J. C. Stillwell.

WILLIAM CONWAY *vs.* JOHN G. SCHALL. } C. P., No. 4, December Term, 1897. No. 626.

And now, February 24th, 1898, on motion of J. C. Stillwell, attorney for plaintiff, judgment is entered against the defendant in the above suit by default for want of affidavit of defense, the prothonotary to assess damages.

Assessment of Damages.

Real debt	$1,002.06
Interest from December 20, 1897	10.37
	$1,012.43

Ten hundred and twelve dollars and forty-three cents.

I assess the damages as above.

CLAY,
Prothonotary.

23 Endorsement: 626, Dec., '97, C. P., No. 4. Wm. Conway *vs.* John G. Schall. Judgment and assessment of damages. R. V. Clay. J. C. Stillwell.

WILLIAM CONWAY *vs.* JOHN G. SCHALL. } C. P., No. 4, Dec. Term, 1897. No. 626.

Issue attachment execution in above case and summon the Chestnut Street national bank and George H. Earle, Jr., receiver of the said The Chestnut Street national bank, garnishees.
Returnable to the first Monday of June, 1898.
Real debt, $1,012.43
Int. from Feb. 24th, 1898.

J. C. STILLWELL,
Att'y for Pl'ff.

May 24, 1898.

To the proth'y C. P., Phila.

Endorsement: 626, Dec. T., 1897, C. P., No. 4. Conway *v.* Schall, def't, & Chest. St. N. bk. & G. H. Earle, receiver, & garnishees. Præcipe for att. execution. Filed May 24, 1898. Rains, pro proth'y. Stillwell.

Attachment Surjudgment.

COUNTY OF PHILADELPHIA, *ss:*

The Commonwealth of Pennsylvania to the sheriff of the county of Philadelphia, Greeting:

24 We command you that you levy upon and attach the goods and chattels, stocks, moneys, and interests of and debts due to John G. Schall, defendant, in satisfaction of a certain judgment obtained in our court of common pleas, No. 4, of the county [SEAL.] of Philadelphia, at the suit of William Conway, plaintiff, against the said defendant, of Dec. term, 1897, No. 626, for the sum of one thousand and twelve dollars and forty-three cents, with interest from the 24th day of Feb'y, 1898, and costs.

And also that by honest and lawful men of your bailiwick you make known to the said defendant and to the Chestnut St. national bank and George H. Earle, Jr., receiver of the said The Chestnut Street national bank, and all other persons in whose hands or possession the said goods and chattels, stocks, moneys, interest, and debts or any of them may be attached as garnishees that they be and appear before our said court, at Philadelphia, on the first Monday of June next, to show, if anything they, the said defendant or the said garnishees, have to say, why the said judgment, besides costs of suit, should not be levied of the effects of the said defendant in the hands of the said garnishees; and have you then and there this writ.

Witness the Honorable Michael Arnold, president judge of our said court, at Philadelphia, the 24th day of May, in the year of 25 our Lord one thousand eight hundred and ninety-eight (1898).

SOLOMON RAINS,
Pro Prothonotary.

Attached as within commanded and made known to garnishee as follows, viz., George H. Earle, receiver, &c., by giving to him May 24th, 1898, at 1 o'clock and 20 minutes p. m., a true and attested copy of the within writ and making known to him the contents thereof, and the Chestnut Street national bank by *having* May 25th, 1898, at 9 o'clock a. m., a like copy at the dwelling-house of Isaac Cooper, vice-president of said bank, residing at 1819 Spring Garden street, with an adult member of his family, and *nihil habet* as to John G. Schall, defendant.

So answers—

JOHN J. CURLEY, *Deputy Sheriff.*
ALEXANDER CROW, JR., *Sheriff.*

Endorsement: 626, Dec. term, 1897, court of common pleas, No. 4. William Conway *vs.* John G. Schall, def't, and Chestnut St. Nat'l Bk. & Geo. H. Earle, Jr., receiver of Chestnut St. nat'l bk. Att. surjudgment.

Real debt	$1,012.43
Int. from 2, 24, '98	
Att'y, writ, &c.	7.25
Proth'y	3.37
Cr. and sat.	.25
Att. surjudgment	1.25

26 Costs on same:

Att'y, &c.	6.00
Proth'y	3.62
Gar. att'y	13.00

Stillwell.
Sheriff's office, May 24, 1898, 10.55 o'clock a. m.

In the Court of Common Pleas, No. 4, of Philadelphia County, State of Pennsylvania, December Term, 1897.

WILLIAM CONWAY, Plaintiff,
vs.
JOHN G. SCHALL, Defendant, and CHESTNUT STREET National Bank and George H. Earle, Jr., Receiver of the Chestnut St. National Bank, Garnishees. } No. 626.

Qualified Entry of Appearance.

To the prothonotary of said court.

SIR: Enter our appearance for George H. Earle, Jr., receiver of the Chestnut Street national bank, and Chestnut Street National Bank, defendants and garnishees in the above case, for the purpose only of moving said court to set aside the writ of summons in attachment surjudgment against him and them and to dismiss and vacate all proceedings in attachment therein against him or them.

ASA W. WATERS,
W. H. ADDICKS,
Attorneys for George H. Earle, Jr., Receiver of the Chestnut
27 *Street National Bank, and Chestnut Street National Bank.*

Endorsement: No. 626, Dec. term, 1897, C. P., 4. William Conway, plaintiff, *vs.* John G. Schall, defendant, and Chestnut Street National Bank and George H. Earle, Jr., receiver of the Chestnut St. national bank, garnishees. Qualified entry of appearance. Filed June 9, 1898. C. H. W. W. H. Addicks. Asa W. Waters.

In the Court of Common Pleas, No. 4, of Philadelphia County, State of Pennsylvania, December Term, 1897.

WILLIAM CONWAY, Plaintiff,
vs.
JOHN G. SCHALL, Defendant, and THE CHESTNUT STREET National Bank and George H. Earle, Jr., Receiver of the Chestnut Street National Bank, Garnishees. } No. 626.

Motion to Set Aside Service of Writ of Attachment Surjudgment and to Dismiss and Vacate All Proceedings in Attachment.

And now, to wit, this 6th day of June, 1898, the Chestnut Street National Bank of Philadelphia, Pennsylvania, by its receiver, duly appointed by the Comptroller of the Currency of the United States, George H. Earle, Jr., moves the court to set aside the service
28 of writ of attachment surjudgment and to dismiss and vacate all proceedings in attachment herein against him or said bank for the reason that the said court has not jurisdiction in such an action under section 5242 of the Revised Statutes of the United States.

ASA W. WATERS,
W. H. ADDICKS,
Attorneys for the Receiver of the Chestnut Street National Bank and said Chestnut Street National Bank.

Endorsement: No. 626, Dec. T., 1897, C. P., 4. William Conway *vs.* John G. Schall, defendant, and Chestnut Street National Bank and George H. Earle, Jr., receiver of the Chestnut St. national bank, garnishee-. Motion to set aside service of writ of attachment surjudgment and to dismiss and vacate all proceedings in attachment. June 3, 1898. Rule to show cause granted. Ret. June 13, 1898. M. A. W. H. Addicks. Asa W. Waters. Filed June 9, 1898. C. H. W. A. W. W.

WILLIAM CONWAY, Plaintiff,
vs.
JOHN G. SCHAAL, Defendant, and THE CHESTnut Street National Bank and George H. Earle, Jr., Receiver of the Chestnut Street National Bank, Garnishee-. } C. P., 4, Dec. T., 1897. No. 626.

29 *Affidavit*

COMMONWEALTH OF PENNSYLVANIA, *City and County of Philadelphia,* } *ss:*

Before me, the subscriber, a notary public in and for the county and State, personally appeared George H. Earle, Jr., who, being duly affirmed, deposes and says that prior to December 23rd, 1897, the Chestnut Street National Bank of Philadelphia, Pennsylvania, garnishee in the above-entitled action, was duly incorporated and

organized under the laws of the United States, and was transacting a banking business, and that on or about the said date it suspended payment of its obligations and became insolvent, and was so declared by the Comptroller of the Currency of the United States.

That thereafter, to wit, on or about the 29th day of January, 1898, this affiant was duly appointed by the Comptroller of the Currency of the United States, under the laws of the United States, receiver for the said Chestnut Street national bank, and as such, under the direction of the said Comptroller of the Currency, took and now holds possession of the books, records, and assets of every description of said banking association, and is now administering
30 the duties of such trust.

GEORGE H. EARLE, JR.

Affirmed and subscribed before me this seventeenth day of June, A. D. 1898.

H. G. HART,
Notary Public.

[SEAL.]

Endorsement: No. 626, Dec. T., 1897, C. P. 4. William Conway *vs.* John G. Schaal, defendant, and The Chestnut Street National Bank and George H. Earle, Jr., receiver of the Chestnut Street national bank, garnishees. Affidavit of George H. Earle, Jr. Filed Jun- 17, 1898. J. Briggs, pro proth'y. W. H. Addicks, Asa W. Waters.

EASTERN DISTRICT OF PENNSYLVANIA, } *ss:*
City and County of Philadelphia, }

[SEAL.] The Commonwealth of Pennsylvania to the justices of the court of common pleas, No. 4, for the county of Philadelphia, Greeting:

We, being willing for certain causes to be certified of the matter of the appeal of the Chestnut Street National Bank and George H. Earle, Jr., receiver of the Chestnut Street national bank, from the order of said court discharging rule to set aside service of writ of attachment surjudgment, &c., entered June 20, 1898, to No.
31 626, December term, 1897, wherein William Conway was plaintiff and John G. Schall was defendant and The Chestnut Street National Bank and George H. Earle, Jr., receiver of the Chestnut Street national bank, the said appellants, were garnishees, before you or some of you depending, do command you that the record and proceedings aforesaid, with all things touching the same, before the justices of our supreme court of Pennsylvania, at a supreme court to be holden at Philadelphia, in and for the eastern district, the first Monday of January next, so full and entire as in our court before you they remain, you certify and send, together with this writ, that we may further cause to be done thereupon that which of right and according to the laws of the said State ought.

Witness the Honorable James P. Sterrett, doctor of laws, chief

justice of our said supreme court, at Philadelphia, the 24th day of June, in the year of our Lord one thousand eight hundred and ninety-eight.

CHAS. S. GREENE,
Prothonotary.

To the honorable the judges of the supreme court of the Commonwealth of Pennsylvania, sitting in and for the eastern district:

The record and process and all things touching the same, so full and entire as before us they remain, we certify and send, as
32 within we are commanded.

M. ARNOLD. [L. S.]
CHAS. Y. AUDENRIED. [L. S.]

Endorsement: 626, Dec. term, 1897, C. P., No. 4. No. 247, January term, 1898, supreme court. William Conway *vs.* John G. Schall, The Chestnut Street National Bank, *et al.*, garnishees, ap'ts. Certiorari to the court of common pleas, No. 4, for the county of Philadelphia, returnable the first Monday of January, 1899. Rule on the appellee to appear and plead on the return day of the writ. June 24, 1898, bro't into office. C. B. R. Filed Jul- 6, 1898, in supreme court. Asa W. Waters. W. H. Addicks.

Assignments of Error.

In the Supreme Court of Pennsylvania, Sitting at Philadelphia, January Term, 1898.

WILLIAM CONWAY, Appellee,
vs.
(JOHN G. SCHALL, Defendant, and) THE CHESTNUT STREET National Bank and George H. Earle, Jr., as Receiver of the Chestnut Street National Bank, Garnishees, Appellants. } No. 247.

Assignments of error upon behalf of appellants.

The appellant George H. Earle, Jr., as receiver of the Chestnut Street national bank, and upon behalf of said bank, against whom the writ of attachment surjudgment was issued and served in
33 the proceedings before the court below, assigns as an error of the learned court below its order discharging the appellants' rule (motion) "to set aside the service of writ of attachment surjudgment against him or said bank for the reason that the said court had not jurisdiction in such an action under section 5242 of the Revised Statutes of the United States."

ASA W. WATERS,
WILLIAM H. ADDICKS,
Attorneys for Appellants.

Endorsement: No. 247, January term, 1898. In the supreme court of Pennsylvania, sitting at Philadelphia. William Conway, appellee, *vs.* John G. Schall, defendant, and The Chestnut Street National Bank & George H. Earle, Jr., as receiver of the Chestnut Street national bank, garnishees, appellants. Assignments of error upon behalf of appellants. Filed Jan. 2. 1899, in supreme court. Asa W. Waters, W. H. Addicks, attorneys for appellants.

WILLIAM CONWAY
v.
CHESTNUT STREET NAT'L BANK *et al.*, Ap'ts.
} C. P., No. 4, Philadelphia. 247, January Term, 1898.

Filed Jan. 30, 1899.

Per curiam:

We find no error in this record of which the appellants have any just reason to complain.

Judgment affirmed.

STATE OF PENNSYLVANIA, *Eastern District*, } *ss:*

I, Charles S. Greene, prothonotary of the supreme court of Pennsylvania in and for the eastern district, do hereby certify that the above and foregoing is a true copy of the opinion in the above-entitled cause so full and entire as appears of record in said court.

In testimony whereof I have hereunto set my hand and affixed the seal of said court, at Philadelphia, this 9th day of February, A. D. 1899.

[Seal of the Supreme Court of Pennsylvania, Eastern District, 1776.]

CHAS. S. GREENE,
Prothonotary.

[Ten-cent U. S. internal-revenue stamp, canceled 2, 9, '99. C. S. G.]

UNITED STATES OF AMERICA, *State of Pennsylvania*, } *ss:*

I, Charles S. Greene, prothonotary of the supreme court of Pennsylvania, eastern district, do hereby certify that the foregoing record, pages 1 to 34, inclusive, is a true and faithful copy of the proceedings of the supreme court of the State of Pennsylvania, eastern district, in a certain suit therein pending, wherein The Chestnut Street National Bank and George H. Earle, Jr., receiver of
35 the Chestnut Street national bank, garnishees, were appellants and William Conway was appellee.

In testimony whereof I have hereunto subscribed my name and affixed the seal of the said supreme court of the State of Pennsylvania, eastern district, at Philadelphia, the 9th day of February, 1899, and in the one hundred and twenty-third year of the Independence of the United States.

Seal of the Supreme Court of Pennsylvania, Eastern District, 1776.

CHAS. S. GREENE,
Prothonotary of the Supreme Court of Pennsylvania, Eastern District.

[Ten-cent U. S. internal-revenue stamp, canceled 2, 9, '99. C. S. G.]

36 I, James P. Sterrett, chief justice of the supreme court of Pennsylvania, do hereby certify that Charles S. Greene was at the time of signing the annexed attestation and now is prothonotary of the said supreme court of Pennsylvania in and for the eastern district, to whose acts as such full faith and credit are and ought to be given, and that the said attestation is in due form.

In witness whereof I have hereunto subscribed my name this ninth day of February, one thousand eight hundred and ninety-nine.

JAMES P. STERRETT,
Chief Justice Supreme Court.

[Ten-cent U. S. internal-revenue stamp, canceled 2, 9, '99. C. S. G.]

I, Charles S. Greene, prothonotary of the supreme court of Pennsylvania in and for the eastern district, do certify that the Honorable James P. Sterrett, by whom the foregoing certificate was made and given, was at the time of making and giving the same and is now chief justice of the supreme court of Pennsylvania, to whose acts as such full faith and credit are and ought to be given, as well in courts of judicature as elsewhere, and that his signature thereto subscribed is genuine.

In testimony whereof I have hereunto set my hand and affixed the seal of the said supreme court of Pennsylvania in and for the eastern district, at Philadelphia, this ninth day of February, one thousand eight hundred and ninety-nine.

[Seal of the Supreme Court of Pennsylvania, Eastern District, 1776.]

CHAS. S. GREENE.

[Ten-cent U. S. internal-revenue stamp, canceled 2, 9, '99. C. S. G.]

UNITED STATES OF AMERICA, *ss:*

To William Conway, Greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States, at Washington, within 30 days from the date hereof, pursuant to a writ of error filed in the clerk's office of the supreme court of the State of Pennsylvania, wherein George H. Earle, Jr., receiver of the Chestnut Street national bank,

is plaintiff in error and you are defendant in error, to show cause, if any there be, why the judgment rendered against the said plaintiff in error, as in the said writ of error mentioned, should not be corrected and why speedy justice should not be done to the parties in that behalf.

Witness the Honorable George Shiras, Jr., associate justice of the Supreme Court of the United Sates, this 8th day of February, in the year of our Lord one thousand eight hundred and ninety-nine.

GEORGE SHIRAS, JR.,
Associate Justice of the Supreme Court of the United States.

Service of above citation on February 9, 1899, is admitted and accepted.

J. C. STILLWELL,
Att'y for Wm. Conway.

Endorsed on cover: File No., 17,307. Pennsylvania supreme court. Term No., 219. George H. Earle, Jr., receiver of the Chestnut Street national bank, plaintiff in error, *vs.* William Conway. Filed February 20th, 1899.